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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92045396
Party	Defendant INGREDIA INGREDIA 51 - 53 Avenue Fernand Lobbedez FRX 62000 Arras,
Correspondence Address	MARY MARGARET O'DONNELL RADER, FISHMAN & GRAUER PLLC 39533 WOODWARD AVENUE, SUITE 140 BLOOMFIELD HILLS, MI 48304
Submission	Motion to Consolidate
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**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

INGREDIA,

Opposer,

v.

DARIGOLD, INC.
D/B/A WESTFARM FOODS,

Opposition No. 91168335
Serial No. 78/584,947
Mark: MILKPRO

Applicant.

_____ /

DARIGOLD, INC.
D/B/A WESTFARM FOODS,

Petitioner,

v.

INGREDIA,

Cancellation No. 92045396
Registration No. 2,615,667
Mark: PROMILK

Respondent.

_____ /

**OPPOSER'S MOTION AND BRIEF TO CONSOLIDATE OPPOSITION
AND CANCELLATION PROCEEDINGS**

Opposer and Respondent, INGREDIA ("Opposer") in the above-referenced opposition and cancellation proceedings, through its attorneys Rader, Fishman & Grauer PLLC, 39533 Woodward Avenue, Suite 140, Bloomfield Hills, Michigan, hereby moves the Trademark Trial and Appeal Board to consolidate these proceedings pursuant to Fed. R. Civ. P. 42(a).

I. ARGUMENT

Consolidation of oppositions and cancellations in inter partes proceedings before the Board is governed by Rule 42(a) of the Federal Rules of Civil Procedure. Federal Rule of Civil Procedure 42(a) provides that “when actions involving a common question of law or fact are pending before the court, [...] it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary cost and delay.” The Board routinely orders consolidation of opposition and cancellation proceedings where consolidation would be advantageous to the parties. *World Hockey Ass’n v. Tudor Metal Prod. Corp.*, 185 USPQ 246 (TTAB 1975); *Ritchie v. Simpson*, 41 USPQ2d 1859 (TTAB 1996), *rev’d on other grounds*, 170 F.3d 1092, 50 USPQ2d 1023 (Fed. Cir. 1999) (cases consolidated despite variations in marks and goods); *Hilson Research Inc. v. Society for Human Resource Management*, 27 USPQ2d 1423 (TTAB 1993) (opposition and cancellation consolidated).

This opposition and cancellation proceeding merit granting Opposer’s Motion to Consolidate. Here, Opposer instituted proceedings in opposition to registration of trademark application Serial No. 78/584,947 for MILKPRO. The Opposition was based on a likelihood of confusion with Opposer’s various “PRO” formative marks, including Registration No. 2,615,667 for PROMILK. In apparent retaliation, Applicant instituted cancellation proceedings against Opposer’s Registration No. 2,615,667 for PROMILK. The parties are the same and the marks involved are the same. The actions were filed within one month of each other – they are the same stage and will progress in similar stages. Many of the discovery issues will be the same. Therefore, consolidation would avoid a duplication of efforts, loss of time, and the extra expense involved in conducting

the proceedings alternately, without causing any prejudice or inconvenience to the parties.

II. CONCLUSION

Consolidation will preserve the resources of the Board, thereby serving the significant interest of judicial economy, as well as both parties. Accordingly, Opposer respectfully requests the Board to order consolidation of the proceedings.

Respectfully Submitted:

RADER, FISHMAN & GRAUER PLLC

Dated: April 29, 2006



Mary Margaret O'Donnell

Tracy L. Zawaski

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CERTIFICATE OF TRANSMITTAL

I hereby certify that this correspondence is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trials and Appeals (ESTTA) on the following date:

Date: April 29, 2006

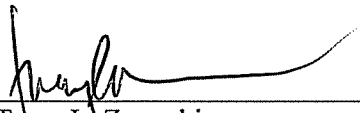

Tracy L. Zawaski

CERTIFICATE OF SERVICE

This will certify that a copy of the foregoing *Opposer's Motion and Brief to Consolidate Opposition and Cancellation Proceedings* has been served upon the following on April 29, 2006 via first class mail, with sufficient postage:

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Date: April 29, 2006



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